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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 AMGEN INC.,

9 Petitioner,

10 v.

11 ALDER BIOPHARMACEUTICALS, INC.,

12 Respondent.
13

CASE NO. 19-mc-168 RSM

ORDER ON PENDING MOTIONS

14 This matter is before the Court on Amgen's Motion to Compel Alder's Production of
15 Documents. Dkt. #1. Amgen's Motion was filed on December 19, 2019, and noted for the
16 Court's consideration on January 3, 2020. On the date Alder was to respond, December 30, 2019,
17 Alder filed a motion seeking to reset the noting date of Amgen's Motion, effectively seeking to
18 continue Alder's deadline to respond to Amgen's Motion. Dkt. #13. Finding further briefing
19 unnecessary, the Court now resolves the pending motions as follows.

20 Alder's motion properly invokes Federal Rule of Civil Procedure 6(b) which allows the
21 Court to extend Alder's time to respond for good cause. FED. R. CIV. P. 6(b). Alder's full
22 justification for its request is the unsworn representation of counsel that:

23 With the Christmas and New Year holiday weeks occurring immediately
24 after the filing of Amgen's motion, Alder acted diligently to prepare for the filing
of its response by the December 30, 2019 deadline implied by the January 3, 2020

1 noting date. Despite those efforts, vacations, office closures, and travel schedules
2 have unavoidably hindered counsel's ability to prepare and file its opposition with
3 necessary input from its U.S.- and Switzerland-based client and Alder's New
York-based counsel in the underlying action pending in the Southern District of
New York.

4 Dkt. #13 at 2. Amgen opposes the requested extension, representing to the Court its belief that
5 Alder continues to delay its compliance with Amgen's subpoena. Dkt. #14 at 2-3.

6 Putting aside that Alder's representations to the Court are unsworn, the Court finds them
7 unacceptably short on specifics. The Court fully accepts that vacations, office closures, and
8 travel schedules around the holidays may complicate a party's ability to timely respond to a
9 motion. But Alder has not provided any specifics to show that this was the case here. The Court
10 will not rely on its own speculation to fill in the gaps left by Alder.

11 Of some importance, the record makes clear that Alder is not facing a motion to compel
12 that was unexpected or a motion that was deliberately filed before the holidays in bad faith.
13 Acknowledging that the Court has only one side of the story because Alder has not substantively
14 responded, Amgen establishes that Alder agreed to begin producing documents responsive to the
15 subpoena by December 13, 2019. Dkt. #1-2 at 75. When that date passed without documents
16 being produced, Amgen indicated to Alder, on December 17, 2019, that it would file a motion to
17 compel. Dkt. #1-2 at 74. Amgen did so two days later. Dkt. #1.

18 Presumably, Alder was aware of the impending holidays, vacations, office closures, and
19 travel schedules by December 19, 2019. Despite advanced notice, Alder waited until the day its
20 response was due to notify both Amgen and the Court of its need for relief from the deadline.
21 Dkt. #13. Perhaps the need for relief from the deadline arose in the interim, but Alder provides
22 no indication that this was the case and the Court is again left to speculate. Alder has not
23 established good cause, and the Court does not find good cause, to grant Alder relief from its
24 deadline to respond to Amgen's Motion and denies Alder's motion.

1 As such, Alder has failed to timely respond to Amgen's Motion. Pursuant to Local Civil
2 Rule 7(b)(2), the Court may accept a party's failure "to file papers in opposition to a motion . . .
3 as an admission that the motion has merit." LCR 7(b)(2). The Court does so here.

4 Accordingly, and having reviewed the motions and relevant briefing and the remainder
5 of the record, the Court finds and ORDERS that:

- 6 1. Alder BioPharmaceuticals, Inc.'s Motion to Reset Noting Date for Amgen Inc.'s Motion
7 to Compel Production of Documents (Dkt. #13) is DENIED.
- 8 2. Amgen's Motion to Compel Alder's Production of Documents (Dkt. #1) is GRANTED.
- 9 3. Alder is ordered to begin producing documents within the scope agreed to by the parties
10 and using the confidentiality designations contemplated by the Protective Order in
11 *Novartis v. Amgen*, No. 1:19-cv-02993-PKC (S.D.N.Y.), no later than January 8, 2020,
12 and to complete its document production no later than January 31, 2020.

13 Dated this 3rd day of January 2020.

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15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
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